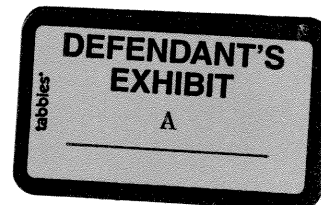


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GERALD CRAWFORD-TOON,)	
Individually and as)	
Special Representative on)	
behalf of the Estate of)	
LLOYD TOON, Deceased,)	
Plaintiff,)	
)	
-vs-)	No. 2:08-cv-88707-ER
)	
THE ANCHOR PACKING)	
COMPANY, et al.,)	
Defendants.)	

THE DISCOVERY DEPOSITION OF
JOSEPH H. FERRITER
Taken on behalf of the Defendants
February 21, 2013

Reported by Maria Elena Golden, CSR, RPR
Illinois CSR License No. 84-3705



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-vs-) No. 2:08-cv-88707-ER

)

THE ANCHOR PACKING)

COMPANY, et al.,)

)

Defendants.)

The discovery deposition of JOSEPH H. FERRITER,
produced, sworn and examined on behalf of the
Defendants on February 21, 2013, between the hours of
9:12 a.m. and 12:03 p.m. on that day, at 220 South
Ashland Avenue, Chicago, Illinois, taken before
Maria Elena Golden, CSR No. 84-3705, a Certified
Shorthand Reporter, a Registered Professional
Reporter, and a Notary Public.

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(No exhibits were marked.)

APPEARANCES:

CASCINO VAUGHAN LAW OFFICES, LTD.

BY: MR. KEVIN P. HANBURY

220 South Ashland Avenue

Chicago, Illinois 60607

Appeared on behalf of the Plaintiff

BURNS WHITE, LLC

BY: MR. RICHARD S. SIGURDSON, II

106 Isabella Street

Four Northshore Center

Pittsburgh, Pennsylvania 15212

Appeared via telephone on behalf of

Consolidated Rail Corporation

Examination by Mr. Sigurdson

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1 IT IS HEREBY STIPULATED AND AGREED by and
2 between counsel for the Plaintiff and counsel for the
3 Defendants that this deposition may be taken in
4 machine shorthand by Maria Elena Golden, a Certified
5 Shorthand Reporter, Registered Professional Reporter,
6 and a Notary Public, and afterwards transcribed into
7 print, and the signature of the witness is waived by
8 agreement of counsel and the witness.

9 o-O-o

10 JOSEPH H. FERRITER,
11 of lawful age, being produced, sworn and examined on
12 behalf of the Defendants, and after responding "I do"
13 to the oath administered by the court reporter,
14 deposes and says:

15 EXAMINATION

16 BY MR. SIGURDSON:

17 Q. Good morning, Mr. Ferriter. How are you?

18 A. **Very good, sir.**

19 Q. My name is Richard Sigurdson, and I
20 represent one of the defendants in the Lloyd Toon
21 case. I understand that you had your deposition
22 taken before. So, just to refresh your recollection,
23 I'm going to be asking you a series of verbal
24 questions, and I ask you to please give me verbal

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1 answers as opposed to a nod of the head or shrug of
2 the shoulders, at least a "yes" or "no." I ask you
3 to let me finish my question. I'll extend you the
4 same courtesy in your answer. Okay?

5 A. **Yes, sir.**

6 Q. All right. Somebody, on going back and
7 reading this, will assume you understood the
8 question, so if you do not, let me know and I can
9 rephrase it for you. Does that sound fair, sir?

10 A. **That sounds good.**

11 Q. Okay. Just as a preliminary thing, have
12 you brought anything with you today?

13 A. **No. A bottle of water. That's it.**

14 Q. Okay. Do you have your report with you?

15 A. **No, sir, I don't.**

16 Q. Okay. Why don't you have a copy of the
17 report?

18 A. **I didn't think it was necessary.**

19 MR. HANBURY: Richard, I've got a copy with
20 me, if you need him to refer to it.

21 MR. SIGURDSON: Okay. Yeah, let's just
22 mark that Ferriter I then, okay?

23 MR. HANBURY: Sure.

24

Page 7

1 BY MR. SIGURDSON:

2 Q. And that would be your October 18th, 2011
3 report?

4 A. **That's correct.**

5 Q. Okay.

6 MR. HANBURY: It's got an "Exhibit I"
7 sticker on it from a previous deposition, so we'll
8 just go with that.

9 MR. SIGURDSON: Okay. That's fine.

10 BY MR. SIGURDSON:

11 Q. All right, sir. Do you have a file
12 specific to the Lloyd Toon case?

13 A. **Myself? No, sir, I don't.**

14 Q. Okay. Sir, can you please tell me your
15 full name, and spell your last name for the record?

16 A. **My name is Joseph H. Ferriter, last name is**
17 **F-E-R-R-I-T-E-R.**

18 Q. Okay. And what is your business address,
19 sir?

20 A. **My home address is 16354 Paxton, Tinley**
21 **Park, Illinois 60477.**

22 Q. Okay. So do you use that as your business
23 address as well in your legal consulting work?

24 A. **What are you talking about business, sir?**

Page 8

1 **I'm a retired pipefitter.**

2 Q. Okay. Well, you do legal consulting work,
3 though, at least for the Cascino Vaughan firm, right?
4 So, I mean, would that be considered your business
5 address?

6 A. **I guess if that's what you consider me**
7 **doing, yes.**

8 Q. Okay. So that's the only address you have,
9 fair statement?

10 A. **Yes, sir.**

11 Q. Okay. Can you tell me when you were first
12 retained in the Lloyd Toon case?

13 A. **I've been retained since last September, or**
14 **September 2011, I believe, is when I started with**
15 **them. Maybe it might have even been a little bit**
16 **before that. It was back in 2011 when I started with**
17 **Cascino Vaughan.**

18 Q. Okay. So, I mean, but specific to the
19 Lloyd Toon case, have you been retained in his case?
20 Do you know when that retention was obtained?

21 A. **All I'm doing is I'm here to testify about**
22 **the case, sir, about the man. I don't -- I wasn't**
23 **specifically hired just to testify for him.**

24 Q. Okay. You've been retained globally in

Examination by Mr. Sigurdson

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1 these cases; is that fair?

2 **A. I guess you would say that, yes.**

3 Q. Okay. According to your general report,
4 you indicate that your rate of compensation is \$50
5 per hour; is that right?

6 **A. That's correct, sir.**

7 Q. Okay. And that would be the same rate for
8 testimony?

9 **A. Yes, sir.**

10 Q. Okay. Have you ever prepared a
11 case-specific report in any case?

12 **A. I don't understand what you mean by
13 "case-specific report," sir.**

14 Q. I mean, other than your general report,
15 have you -- have you prepared any reports for
16 individual cases where you've reviewed materials with
17 respect to a particular man or plaintiff?

18 **A. I haven't done actually paperwork. I've
19 seen some of the copies of some of the testimony that
20 the actual person gave, but I never wrote any reports
21 on it, no.**

22 Q. Okay. What's your purpose for reviewing
23 the testimony?

24 **A. Would you repeat that, sir?**

Page 10

1 Q. What's your purpose for reviewing the
2 testimony?

3 **A. What is my preference?**

4 MR. HANBURY: Purpose.
5 BY MR. SIGURDSON:

6 Q. No, what is your purpose in --

7 **A. Oh, purpose?**

8 Q. -- reviewing the testimony?

9 **A. Oh. Sometimes, just like the way people
10 write things down, people might write things down
11 different than you see them. That's the only reason
12 I do it.**

13 Q. What do you mean by that? I don't
14 understand that.

15 **A. There might be a different terminology that
16 a person uses when they're talking about certain
17 things.**

18 Q. Okay. We'll get to this in a moment, but
19 have you referred -- have you reviewed anything
20 specific to the Lloyd Toon case?

21 **A. No, sir.**

22 Q. Okay. We'll get to that in a moment, okay?
23 But you've reviewed nothing, right?

24 **A. That's correct, sir.**

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1 hourly rate or do you just stick to the 250?

2 **A. We've never had a deposition go over five
3 hours yet, so we haven't crossed that road yet.**

4 Q. Okay.

5 MR. HANBURY: And hopefully won't.
6 BY MR. SIGURDSON:

7 Q. Okay. Do you -- do you charge them for
8 review of materials?

9 **A. Specifically, what -- reviewing what
10 materials, sir?**

11 Q. Any materials in a case. You said you
12 haven't reviewed anything in the Toon case, but say
13 you reviewed interrogatories or depositions or --
14 well, what kind of things do you review?

15 **A. I just use general knowledge and the
16 knowledge from what I wrote on my Rule 26 report,
17 and --**

18 Q. Okay. But I mean, specific to cases, what
19 kind of materials do you ask to review, any --

20 **A. All the -- the only thing I usually find
21 out about the cases that I'm going to know is if I
22 know the person, where the person worked, and --**

23 Q. Okay.

24 **A. -- that he was a pipefitter. That's about**

3 (Pages 9 to 12)

Examination by Mr. Sigurdson

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Page 15

1 all I get.
 2 Q. Okay. Where does that information come
 3 from, somebody just tells you that?
 4 A. A lot of times I know the person that I'm
 5 making the deposition for, or I've worked around the
 6 person. If I don't know the person, usually Cascino
 7 Vaughan lets me know his name and where he worked.
 8 Q. Okay. Do you know Lloyd Toon?
 9 A. No, sir.
 10 Q. Okay. We'll get to that.
 11 Now, sir, how much of your income in 2012
 12 was derived from legal consulting work on these
 13 cases? Can you tell me that?
 14 A. Yes. It's about \$1,300.
 15 Q. Okay. How about in 2011, can you give me a
 16 number on that?
 17 A. I believe it was a little over 2,000. I
 18 can't tell you exactly.
 19 Q. Okay. And how many depositions have you
 20 had incident to this litigation?
 21 A. I believe this is the fourth deposition
 22 I've made, I believe.
 23 Q. Okay. So it's your fourth deposition.
 24 So -- and you've been doing this consulting work for

1 A. That's correct.
 2 Q. Why did you move on to Cooney & Conway?
 3 A. I just decided I'd make a move, that's all.
 4 Q. Okay. And what was your disease process
 5 that you were alleging?
 6 A. I've got asbestosis.
 7 Q. Okay. When were you diagnosed with
 8 asbestosis?
 9 A. 1990.
 10 Q. 1990?
 11 A. That's correct, sir.
 12 Q. Okay. What is your understanding of
 13 asbestosis?
 14 A. Well, it -- my difficulty breathing. So
 15 far it hasn't gone into the bad stuff, so I get
 16 checkups every six months from the doctor, and that's
 17 one of the things they do, is give me chest x-rays,
 18 and they monitor it pretty good.
 19 Q. Okay. So far as -- you don't have any
 20 other asbestos-related diseases you know of other
 21 than asbestosis; is that right?
 22 A. That's correct, sir.
 23 Q. Okay. Has your testimony ever been
 24 challenged in this litigation?

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Page 16

1 Cascino Vaughan since 2011?
 2 A. That's correct.
 3 Q. Okay. How did you get started in that
 4 work, sir?
 5 A. Well, I used to get phone calls from
 6 various lawyer outfits dealing with asbestos cases
 7 because I was a piping superintendent for quite a few
 8 years and I knew quite a few guys.
 9 Q. Okay. Now, were you getting calls because
 10 of the union you were associated with, that 597; is
 11 that right?
 12 A. No. I was getting calls because the guys
 13 that were starting litigation for the asbestos put my
 14 name down as a person that they worked for or worked
 15 with.
 16 Q. Okay. But you yourself have had an
 17 asbestos lawsuit, right?
 18 A. Yes, sir.
 19 Q. Okay. And you were represented by Cooney &
 20 Conway?
 21 A. Yes, sir.
 22 Q. Okay. And I read somewhere where you
 23 also -- were you represented by Cascino Vaughan
 24 first?

1 A. Well, I guess if you call cross-examination
 2 being challenged, I'd say yes.
 3 Q. Okay. That's a poor question.
 4 Have you ever been excluded as an expert,
 5 do you know, by a court?
 6 A. No.
 7 Q. Okay. Do you provide any consulting
 8 services to any other law firms besides Cascino
 9 Vaughan?
 10 A. No, sir.
 11 Q. Have you ever testified in cases for
 12 Cooney & Conway?
 13 A. No, sir.
 14 Q. Okay. So you've never been a fact witness
 15 for them or anything?
 16 A. No, sir.
 17 Q. Okay. And your asbestosis case, did that
 18 settle?
 19 A. No.
 20 Q. Well, what was the disposition on the case?
 21 A. What do you mean, "the disposition on the
 22 case," sir? I don't understand that.
 23 Q. Well, if it didn't settle, was it
 24 dismissed?

Examination by Mr. Sigurdson

Page 17

Page 19

1 A. No. It's still pending because it's
2 evidently not life-threatening, so they keep dancing
3 around, you know.
4 Q. Okay. But you still have a pending case
5 with Cooney & Conway?
6 A. That's correct, sir.
7 Q. Is that right?
8 A. That's correct, sir.
9 Q. So you're their client, right?
10 A. Yes, sir.
11 Q. Okay. Do they know you do this testimony?
12 A. Yes, they do.
13 Q. Okay. Have you ever been a fact witness in
14 an asbestos case outside of your legal consulting
15 work?
16 A. No, sir.
17 Q. Okay. So you've always been a paid expert?
18 A. I guess so.
19 Q. Okay. Sir, if you could explain to me in
20 your own words, what is your role in these asbestos
21 cases?
22 MR. HANBURY: Object to the form of the
23 question. Go ahead.
24

1 Q. Okay.
2 A. -- that have asbestos on them have the same
3 conditions and everything else. That's probably why
4 I testify in these cases.
5 Q. Okay. And your testimony has been limited
6 to asbestos cases, you've never given testimony at
7 any other occupational exposure cases; is that fair?
8 A. That's correct, sir.
9 Q. Okay. Can you briefly describe for me,
10 sir, your educational experience?
11 A. Well, I graduated from high school. I had
12 a year and a half of college in mechanical
13 engineering, five years of apprenticeship school
14 through the pipefitters for 597. That's my
15 education.
16 Q. Okay. That was a little fast for me. You
17 said a year and a half of mechanical engineering?
18 A. Yes, sir, at Illinois Institute of
19 Technology.
20 Q. Okay. Is that on your CV here?
21 A. I don't believe so, sir.
22 Q. Illinois Institute of Technology. Okay.
23 Then your apprenticeship, how long was that? I think
24 we'll get into that, if --

Page 18

Page 20

1 BY THE WITNESS:
2 A. The only reason I guess I'm testifying in
3 these is I know a lot of people who have contracted
4 the disease over the years. I worked 50 years in the
5 pipefitting industry, and I know a lot of people that
6 have passed away from it, a lot of people that are
7 affected by it.
8 Being in a supervisory capacity most of the
9 time when I was a pipefitter, I had a lot of guys
10 work for me, so a lot of them put my name down as a
11 witness that they went on certain jobs where asbestos
12 was there.
13 BY MR. SIGURDSON:
14 Q. Okay. Well, I mean, how do you hold
15 yourself out as an expert? Like what area do you
16 believe that you're an expert in?
17 A. I'd say I'm only an expert in telling
18 people that, yes, I know the man was there on the job
19 and I know what the conditions were on the job.
20 Q. Okay. So your role in these cases is
21 actually putting plaintiffs at various job sites?
22 That's one part of your testimony?
23 A. No, not necessarily, sir. Most job
24 sites --

1 A. That was five -- that was five years, sir.
2 Q. Okay. And then you said you graduated high
3 school at St. Rita's High School, Chicago, Illinois.
4 In 1953, you graduated, right?
5 A. That's correct.
6 Q. I think it says here Washburne Trade
7 School?
8 A. That was the pipefitters' --
9 Q. Is that different than the mechanical
10 engineering program?
11 A. Yes, sir.
12 Q. Okay. Now, sir, while at St. Rita's High
13 School, did you have any education in the area of
14 railroading?
15 A. No, sir.
16 Q. Did you have any training at St. Rita's
17 High School in the identification of asbestos-
18 containing products?
19 A. No, sir.
20 Q. Okay. Can you briefly describe for me your
21 education at Washburne Trade School?
22 A. Washburne Trade School, we learned math.
23 We learned welding, gas welding and arc welding. We
24 had science, which was practicality of steam jobs,

5 (Pages 17 to 20)

Page 21	Page 23
<p>1 hot water jobs, cooling piping, air-conditioning, 2 quite a -- quite a variety of piping systems. 3 Q. Okay. So you learned about the piping 4 trade there? 5 A. That's correct, sir. 6 Q. Okay. Did you -- at Washburne Trade 7 School, did you have any training in railroading? 8 A. No, sir. 9 Q. Did you have any training in railroad 10 tracks? 11 A. No, sir. 12 Q. I didn't hear you. 13 A. No, sir. 14 Q. Okay. Also, the Illinois Institute of 15 Technology, did you have any training in asbestos 16 there? 17 A. No, sir. 18 Q. Okay. Did you have any training in 19 railroad work there? 20 A. No, sir. 21 Q. Okay. Have you reviewed any cases for 22 Cascino Vaughan where the underlying plaintiff or 23 decedent was an employee of the railroad? 24 A. This is the only one so far, sir.</p>	<p>1 you mean like air quality, things like that? 2 A. I meant air quality, not air-conditioning, 3 sir. Air quality. 4 Q. Okay. Have you ever studied or done any 5 research in the area of industrial hygiene? 6 A. No, sir. 7 Q. Okay. Have you ever gone to any 8 conferences on industrial hygiene? 9 A. Yes. They did start coming up with some of 10 that stuff in the early '80s and the late '80s, some 11 of the safety schools. We used to have to go to work 12 in certain areas. They had some schools out in 13 Joliet, they were safety schools, and they did bring 14 up some of the hazards of asbestos at those schools 15 at the time. That's when the alerts were first 16 coming out with asbestos. 17 Q. Okay. Tell me what your training entailed. 18 Are you referring to -- you have here "Professional 19 Growth" on your CV. It says "includes courses in 20 haz-com training at Moraine Valley Community 21 College." 22 A. Those are -- 23 Q. Is that part of what you're talking about? 24 A. Yes, sir. What they did is they usually</p>
Page 22	Page 24
<p>1 Q. Okay. 2 MR. HANBURY: Let me place an objection to 3 foundation. 4 BY MR. SIGURDSON: 5 Q. Sir, your expertise is in pipefitting work, 6 correct? 7 A. That's correct, sir. 8 Q. Okay. How was that expertise gained? 9 A. Through the apprenticeship school and 10 on-the-job training. 11 Q. Okay. For purposes of the record, sir, you 12 are not an industrial hygienist, right? 13 A. That's correct, sir. 14 Q. Okay. You've been asked that question 15 before, haven't you? 16 A. Yes, sir. 17 Q. Okay. Have you -- so what does that term 18 mean to you, "industrial hygienist"? Do you know 19 what that means? 20 A. I believe it's a person that is concerned 21 with the conditions that the job sites have. I'm 22 talking about air-conditioning conditions and general 23 conditions on a job site. 24 Q. Okay. Well, you say air-conditioning. Do</p>	<p>1 sent us as a class, the new hires that would hire 2 into a job. 3 Q. Okay. 4 A. They would send us over to these different 5 places to get the safety and hazard training for the 6 jobs, especially on the refineries. 7 Q. Okay. Can you tell me when did you attend 8 the haz-com training at Moraine Community College? 9 Was that -- can you tell me what year that was? 10 A. I know it was the early '80s, sir. I 11 couldn't break it down to a certain year. 12 Q. Okay. Can you tell me how long was that 13 training? Was it a day, was it hours? 14 A. They varied depending upon where you went. 15 Some were a couple of hours, some could run up to a 16 full day. 17 Q. Okay. But I mean, just the haz-com 18 training you say at Moraine Valley Community College, 19 was that only one time you went to that? 20 A. Yes, sir. 21 Q. Okay. Any training at haz-com specific to 22 railroads? 23 A. No, sir. 24 Q. Okay. And you say, "safety seminars at</p>

Page 25

Page 27

1 various locations including Amoco Oil, Mobil
 2 Company -- I'm sorry, Mobil Chemical, Mobile Oil
 3 Refinery, Unical, Quantum Chemical, BCRC, and Three
 4 Rivers Safety Orientation at Joliet Junior College.
 5 The safety seminars at the refineries,
 6 that's pretty self-explanatory. You wouldn't have
 7 had any training on railroading there, right?
 8 **A. That's correct, sir.**
 9 **Q. How about Three Rivers Safety Orientation**
 10 **at Joliet Junior College, when did you attend that?**
 11 **A. That was in the '80s, too, sir. I couldn't**
 12 **break it down to what year. What happened is they**
 13 **started at the Three River and Moraine Valley having**
 14 **these safety places for all the jobs, and**
 15 **eventually --**
 16 **Q. Okay.**
 17 **A. -- the individual places like Mobil Oil,**
 18 **Union Oil, Unical, all the ones I mentioned there,**
 19 **they ended up having their own safety seminars after**
 20 **that, haz-mat trainings.**
 21 **Q. Okay. Well, what was gone over at Three**
 22 **Rivers' safety orientation? Can you tell me that?**
 23 **A. It was just a general safety program and**
 24 **things to look for when you worked in a refinery and**

1 **Q. Okay. Well, we'll get to that.**
 2 **Sir, have you ever done any air monitoring**
 3 **for asbestos?**
 4 **A. No, sir.**
 5 **Q. Are you qualified to do air monitoring?**
 6 **A. No, sir.**
 7 **Q. Okay. Have you ever done any bulk sampling**
 8 **for asbestos?**
 9 **A. No, sir.**
 10 **MR. HANBURY: Bulk sampling.**
 11 **BY THE WITNESS:**
 12 **A. Bulk sampling, are you talking about the**
 13 **packages that come in on the job that were unloaded,**
 14 **or are you talking about stuff that was there on the**
 15 **job already?**
 16 **BY MR. SIGURDSON:**
 17 **Q. No, I'm asking as far as bulk sampling,**
 18 **have you -- have you ever been trained in bulk**
 19 **sampling as far as you're sampling for**
 20 **asbestos-containing materials?**
 21 **A. No, I never sampled any asbestos. No.**
 22 **Q. Okay. Do you -- are you able to read or**
 23 **interpret any air-monitoring studies with respect to**
 24 **air sampling for asbestos?**

Page 26

Page 28

1 **stuff like that.**
 2 **Q. Okay. Anything specific to railroading?**
 3 **A. No, sir.**
 4 **Q. Okay. Anything specific as to the**
 5 **identification of asbestos-containing products in any**
 6 **of these classes?**
 7 **A. Not the identification, but they made us**
 8 **aware that the asbestos was in the area.**
 9 **Q. Okay. What area are you talking about?**
 10 **You mean in refineries?**
 11 **A. Refineries, steel mills, powerhouses,**
 12 **almost all the places that were industrial that had**
 13 **piping in them.**
 14 **Q. Okay. But nothing specific to railroads,**
 15 **right?**
 16 **A. That's correct, sir.**
 17 **Q. And even more specific than that as far as**
 18 **no information regarding railroad shops, right?**
 19 **A. That's correct, sir.**
 20 **Q. Okay. No information regarding railway**
 21 **stock or railroad equipment, right?**
 22 **A. That's correct, sir. I don't think there**
 23 **was any railroad shops in the area where I was**
 24 **working.**

1 **A. No, sir.**
 2 **Q. Okay.**
 3 **A. I never had an --**
 4 **Q. Other than your general report about**
 5 **pipefitter work, have you ever written about the**
 6 **subject of asbestos?**
 7 **A. Would you repeat that, sir?**
 8 **Q. Other than your general report that we**
 9 **talked about, right, that we identified as No. 1 --**
 10 **A. Yes.**
 11 **Q. -- have you ever written about the subject**
 12 **of asbestos at any time other than that?**
 13 **A. No.**
 14 **Q. Okay. Have you ever done any testing to**
 15 **determine the levels of exposure to asbestos during**
 16 **pipefitter work?**
 17 **A. No, sir.**
 18 **Q. Okay. That's not your area, right?**
 19 **A. That's correct, sir.**
 20 **Q. Okay. Now, I've reviewed your curriculum**
 21 **vitae or your résumé, however you want to refer to**
 22 **that, okay? Did you bring a copy of that with you?**
 23 **A. No, I haven't got it, sir. I imagine**
 24 **there's one here at the --**

7 (Pages 25 to 28)

Examination by Mr. Sigurdson

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<p>1 MR. HANBURY: I think there's one attached 2 to Exhibit 1. 3 BY THE WITNESS: 4 A. There's one attached here, yes. 5 BY MR. SIGURDSON: 6 Q. Okay. Now, the one that I have -- 7 MR. HANBURY: Oh, you know what, Richard? 8 Just for the record, the résumé attached to Exhibit 1 9 is actually marked as Exhibit 2, so -- 10 MR. SIGURDSON: Okay. 11 MR. HANBURY: Do you want to refer to it as 12 Exhibit 2 for the purposes of this deposition? 13 MR. SIGURDSON: Okay. That's fine. 14 BY MR. SIGURDSON: 15 Q. Just show -- yeah, mine is marked as 16 Exhibit 2 as well, the one that you produced with the 17 general report. 18 Just so we're referring to the same thing, 19 where it says "Tinley Park, Illinois," we have a 20 lower case "f" instead of a "T." Am I looking at the 21 same one? 22 A. Same one, yes. 23 Q. Okay. Have there been any updates to this 24 résumé, sir?</p>	<p>1 say I had quite a variety of environments I worked 2 in. 3 Q. Okay. And we'll talk about those in a 4 minute. 5 And I see that you worked at a number of 6 job sites in Illinois as well as some in Indiana, 7 right? 8 A. That's correct, sir. 9 Q. Can you tell me what territory your local 10 covered? 11 A. Local 597 went from the Wisconsin border 12 west to about Rockford. It now covers the Joliet 13 area and all the way down Route 80 to Iowa, down 14 around Kankakee, back over in Indiana almost to South 15 Bend up to the Michigan border. It's quite a large 16 area. 17 Q. Okay. So you've never worked out at 18 Indianapolis, Indiana; that's fair? 19 A. That's correct, sir. 20 Q. Okay. And like you told me and we talked a 21 little bit about, based upon your review -- my review 22 of this CV, you've worked in a number of oil 23 refineries and chemical companies, right? 24 A. That's correct, sir.</p>
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<p>1 A. No, sir. I retired ten years ago. 2 Q. All right. We talked about you're a 3 local -- a member of the local pipefitter union 597. 4 Is that union out of Chicago? 5 A. Yes, sir. 6 Q. Okay. Can you briefly describe for me your 7 employment, beginning with your entry into the union? 8 A. You're talking about a general summary of 9 what I did over the years? 10 Q. Yes. I mean, I read some things about you, 11 that, you know, you were an apprentice. I think it's 12 covered a little bit in your report that you became a 13 pipefitter for some years, and then you went into 14 supervision. If you could -- if you could tell me 15 that, just briefly describe that for me. 16 A. Well, I wasn't always a supervisor. I 17 mainly was a supervisor on a lot of jobs, but in 18 between, a lot of times, I would like to work with 19 the tools to make sure I knew what was going on in 20 the field. 21 But I worked in many different areas, as 22 you can see, hospitals, refineries, steel mills, 23 buildings in downtown Chicago, commercial buildings, 24 a lot of small industrial places. I guess you could</p>	<p>1 Q. Okay. I don't see where you've ever done 2 any work for a railroad; is that a fair statement? 3 A. Yes, sir. 4 Q. Okay. So you've never done any pipefitter 5 work on a railroad premises, right? 6 A. That's correct. 7 Q. Okay. And you've never been an employee of 8 a railroad, right? 9 A. That's correct, sir. 10 Q. Okay. Have you ever done any research 11 regarding railroad crafts? 12 A. No, sir. 13 Q. Have you ever visited any -- visited any 14 railroad facilities in your capacity as a pipefitter 15 expert? 16 A. No, sir. 17 Q. Okay. Have you ever visited railroad shops 18 for any purpose? 19 A. No, sir. 20 Q. Okay. And it's fair to say you've never 21 observed any railroad crafts performing their jobs, 22 correct? 23 A. That's correct, sir. 24 Q. Okay. Do you hold yourself out as an</p>

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1 expert on railroads?

2 **A. No, sir.**

3 Q. Okay. Are you an expert in any railroad
4 crafts?

5 **A. I would say pipefitting, because it's**
6 **pipefitting whether it's on a railroad car or a**
7 **railroad steam engine or a powerhouse or a refinery.**
8 **Piping is piping.**

9 Q. Okay. But you yourself have never done any
10 pipefitting work on a railcar; is that a fair
11 statement?

12 **A. That's correct, sir.**

13 Q. Have you ever observed it performed?

14 **A. No, sir.**

15 Q. Okay. Have you ever inspected or looked at
16 a railroad car?

17 **A. Only when I was at a railroad station I**
18 **would probably look at the piping, but I didn't crawl**
19 **underneath it to look.**

20 Q. Okay. Other than like riding a subway or
21 something like that, you told me you've never been in
22 railroad shops, right?

23 **A. That's correct, sir.**

24 Q. Okay. So you've never gone over and

1 **A. That's correct, sir.**

2 Q. You've never been provided any job
3 descriptions, right, of a railroad steamfitter?

4 **A. No, sir, I haven't.**

5 Q. Okay. And you've never observed one
6 perform the job, right?

7 **A. That's correct, sir.**

8 Q. You told me you've never been in any
9 railroad shops?

10 **A. That's correct, sir.**

11 Q. Okay. So, as you sit here today, you have
12 no firsthand knowledge regarding what a railroad
13 steamfitter does, right?

14 **A. I would say basically yes, I do have**
15 **knowledge, sir, because pipefitting is pipefitting no**
16 **matter if it's in a railroad car or a refinery or**
17 **anything else. Pipe is the same. We put it together**
18 **the same way, it operates the same way, it has the**
19 **same characteristics, the whole bit.**

20 Q. Well, how do you know that if you -- beyond
21 your own speculation, if you've never examined a
22 railroad car in your own experience, wouldn't that be
23 a guess?

24 **A. No, sir. It wouldn't be a guess because**

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1 inspected a railroad coach of any description, fair?

2 **A. No, sir. That's fair.**

3 Q. Okay. Have you ever inspected a freight
4 car?

5 **A. Just unload one, that's it, and I wouldn't**
6 **call that inspecting it.**

7 Q. Okay. But you've never inspected it as a
8 pipefitter or as a helper or anything like that,
9 right?

10 **A. That's correct, sir.**

11 Q. Same thing with a passenger coach, you
12 never inspected it from a pipefitter perspective or
13 any kind of repair perspective, right?

14 **A. That's correct, sir.**

15 Q. Okay. Do you hold yourself out as an
16 expert in the repair of a railcar?

17 **A. No, sir, I don't.**

18 Q. Okay. Do you know the duties of a
19 steamfitter on the railroad?

20 **A. No, sir, but it's probably the same as a**
21 **steamfitter in a refinery or anything else. They're**
22 **all the same.**

23 Q. Okay. But the answer to my question is no,
24 right?

1 **pipe goes together one way. I don't care where**
2 **you're at. If you're in Chicago, if you're in South**
3 **America, no matter where you are, pipe is pipe and**
4 **it's all put together the same way.**

5 **If it's steel pipe, it's put together**
6 **welded or screwed. If it's copper, it's soldered.**
7 **There's many, many different types of piping, but**
8 **they're all put together the same way no matter where**
9 **you put them.**

10 Q. Okay. Well, I've seen some of your
11 testimony. You've installed blowers in industrial
12 applications, things like that, right?

13 **A. That's correct, sir.**

14 Q. Sectional boilers, packaged boilers, what
15 have you, right?

16 **A. That's correct.**

17 Q. You've actually done that work, you've
18 actually seen it done, right?

19 **A. That's correct, sir.**

20 Q. You can -- and essentially your experience
21 or your expertise comes from physically doing that
22 work and seeing it done by other people, right?

23 **A. That's correct, sir.**

24 Q. But you don't have any of that kind of

9 (Pages 33 to 36)

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1 knowledge with respect to the work performed on
2 railcars, right?

3 **A. The work on a railcar, the piping would be**
4 **the same as coming off that boiler in the building,**
5 **because that little steam engine that sits in front**
6 **is nothing but a boiler, and the piping hooks back to**
7 **the cars the same as it would be running through a**
8 **building, a refinery or anything else. It's steam**
9 **piping. It's all the same.**

10 Q. How do you know that?

11 **A. It's common knowledge, sir. We were taught**
12 **that in apprenticeship school.**

13 Q. You were taught about locomotives in the
14 apprenticeship school?

15 **A. Not locomotives. I was talking about steam**
16 **piping, sir. Piping that goes -- no matter where it**
17 **goes, it's the same.**

18 Q. It's fair to say you don't hold yourself
19 out as an expert on locomotives, right?

20 **A. That's correct, sir.**

21 Q. Do you have any knowledge regarding the
22 heating systems used on railcars, if any?

23 **A. No, sir, I don't.**

24 Q. Okay. So you can't tell me if the freight

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1 cars are heated, for instance?

2 **A. No.**

3 Q. How about a passengers car, do you know if
4 they're heated?

5 **A. No. I would imagine they are, sir.**

6 Q. Okay. Other than your speculation or
7 riding the subway, can you tell me anything else
8 about the way passenger coaches were heated, say, in
9 the 1945 to 1955 time period?

10 **A. I believe they were heated with little**
11 **steam coils from the steam piping that came from the**
12 **locomotive engine.**

13 Q. Why do -- why do you believe that?

14 **A. Well, a couple of times that I rode the**
15 **train, I know there was like a radiator sitting on**
16 **both ends of the railcar that I was in. In fact, my**
17 **dad pointed it out because he was a pipefitter before**
18 **me.**

19 Q. What time period was that?

20 **A. That was probably in the '50s.**

21 Q. You were a pipefitter then, right?

22 **A. Yes. I started in '53.**

23 Q. Okay. What kind of car was it, do you
24 know?

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1 **A. I don't know. Probably Pullman, I would**
2 **imagine. They were pretty popular at the time, I**
3 **guess.**

4 Q. But you told me you've never done any work
5 on these cars?

6 **A. That's correct, sir.**

7 Q. Okay. Now, as far as -- do you have any
8 knowledge whether passenger coaches have their own
9 boilers or whether the heating system is associated
10 with a locomotive? Do you have any idea about that?

11 **A. I would say they're -- the cars are all**
12 **connected by piping that came from the engine because**
13 **it wouldn't be feasible to have a boiler in each car,**
14 **sir.**

15 Q. Are you surmising that? Is that your own
16 speculation or have you seen -- have you looked at
17 documents with respect to railcars?

18 **A. No, sir, I've never looked at a document.**

19 Q. Okay. What's your basis for that then?

20 **A. It would be practical to just run piping,**
21 **because there is piping run underneath the cars that**
22 **you can see. So it would be practical to say that**
23 **there's probably radiators in a car that are fed from**
24 **the engine up in front.**

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1 Q. Okay. Well, you have no firsthand
2 knowledge of that other than riding in a train,
3 right?

4 **A. That's correct, sir.**

5 Q. Okay. And you have no knowledge, in your
6 professional experience, right?

7 **A. No, sir.**

8 Q. You're agreeing with me, right?

9 **A. That's right, sir.**

10 Q. Okay. Now, you told me you don't have a
11 file on this case, right?

12 **A. I don't have a what, sir, in this case?**

13 Q. A file.

14 **A. No, sir, I don't.**

15 Q. Okay. Were you ever provided Mr. Toon's
16 deposition testimony?

17 **A. No, sir, I wasn't.**

18 Q. Okay. Have you reviewed the testimony of
19 Mr. Toon's co-worker?

20 **A. No, sir.**

21 Q. Okay. Have you reviewed the answers to
22 interrogatories in this case?

23 **A. No, sir.**

24 Q. Okay. Have you been provided with a list

10 (Pages 37 to 40)

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<p>1 of Mr. Toon's worksites?</p> <p>2 A. No, sir.</p> <p>3 Q. What is your understanding of Mr. Toon's</p> <p>4 employment?</p> <p>5 A. That he was a pipefitter/steamfitter, just</p> <p>6 like I was.</p> <p>7 Q. Okay. So he was a member of a plumbers'</p> <p>8 union, right?</p> <p>9 A. Not plumbers, sir. Pipefitters.</p> <p>10 Q. All right. So a pipefitters' union. Okay.</p> <p>11 Do you know how long he was a member of the</p> <p>12 pipefitters' union?</p> <p>13 A. No, sir, I don't.</p> <p>14 Q. Okay. Do you know if he was a railroad</p> <p>15 employee?</p> <p>16 A. I've been told by Cascino Vaughan he was,</p> <p>17 yes.</p> <p>18 Q. Okay. Do you know when he worked for the</p> <p>19 railroad?</p> <p>20 A. No, sir, I don't.</p> <p>21 Q. Okay. And you don't know when he was a</p> <p>22 member of the pipefitters' union outside the</p> <p>23 railroad; is that fair?</p> <p>24 A. No, sir, I don't.</p>	<p>1 Q. You never met the man, so -- but just for</p> <p>2 the purposes of the record. Okay.</p> <p>3 Sir, just to digress a moment, there was --</p> <p>4 in front of your report, there was a declaration</p> <p>5 called "The Declaration of Joseph Ferriter," and it's</p> <p>6 executed on January 20, 2012. I believe that should</p> <p>7 be part of Exhibit 1. Do you have that?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Okay. If we see here, the first says, "My</p> <p>10 name is Joseph Ferriter." That's pretty</p> <p>11 self-explanatory?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. The second statement indicates, "I</p> <p>14 was retained by plaintiffs in this matter." Again,</p> <p>15 that's pretty self-explanatory.</p> <p>16 However, you haven't necessarily been</p> <p>17 retained in the Toon case, have you, I mean except</p> <p>18 for being told you had to give a deposition in this</p> <p>19 case, right?</p> <p>20 A. That's correct.</p> <p>21 Q. Okay. The next sentence indicates, "I have</p> <p>22 reached the opinions expressed in the report attached</p> <p>23 as Exhibit 1 after reviewing the materials described</p> <p>24 in the report." Okay?</p>
Page 42	Page 44
<p>1 Q. Okay. You told me you've never met</p> <p>2 Mr. Toon?</p> <p>3 A. That is correct.</p> <p>4 Q. Okay. Do you know what railroad or</p> <p>5 railroads Mr. Toon worked for?</p> <p>6 A. No, sir.</p> <p>7 Q. Okay. Do you know if he -- if it's been</p> <p>8 alleged that he performed work at a railroad premises</p> <p>9 after terminating his employment with the railroad?</p> <p>10 A. Would you repeat that, sir?</p> <p>11 Q. Do you know if it has been alleged that he</p> <p>12 performed work at a railroad premises after</p> <p>13 terminating his employment with the railroad?</p> <p>14 A. I have no idea, sir.</p> <p>15 Q. Okay. So you don't know if he has ever</p> <p>16 been a pipefitter on a railroad premises at any time?</p> <p>17 A. That's correct, sir.</p> <p>18 Q. Okay. And you said you're not familiar</p> <p>19 with any of his job sites, right?</p> <p>20 A. I don't even know what job sites he worked</p> <p>21 on, sir.</p> <p>22 Q. Okay. And it's fair you've never worked</p> <p>23 with him, right?</p> <p>24 A. That's correct, sir.</p>	<p>1 A. Yes.</p> <p>2 Q. What materials did you review, sir, in</p> <p>3 preparing your report? Can you explain that to me?</p> <p>4 A. I guess by "reviewing," I guess you would</p> <p>5 say it would be my recollection of materials that I</p> <p>6 worked with over the years. I think that's what I</p> <p>7 meant by "reviewing" there.</p> <p>8 Q. What do you mean by "materials," though?</p> <p>9 It sounds to me like -- when somebody says, "I've</p> <p>10 reviewed materials," to me that means like you've</p> <p>11 looked at documents, you've looked at invoices. I</p> <p>12 don't know. Have you looked at anything like that?</p> <p>13 A. No, sir, I haven't.</p> <p>14 Q. Okay. So, when you say "reviewed</p> <p>15 materials," like what do you mean by that?</p> <p>16 A. I'm talking about reviewing my experiences</p> <p>17 that I've had over the years of working in the</p> <p>18 pipefitting industry, is what it's meant to mean.</p> <p>19 Q. Okay. So like basically going back in your</p> <p>20 mind's eye, essentially reviewing experiences you've</p> <p>21 had firsthand as a pipefitter on like job sites such</p> <p>22 as refineries and powerhouses, things like that,</p> <p>23 right?</p> <p>24 A. That's correct, sir.</p>

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<p>1 Q. Looking back on your physical work?</p> <p>2 A. That's correct.</p> <p>3 Q. Putting blowers together, things like that,</p> <p>4 right?</p> <p>5 A. That's correct, sir.</p> <p>6 Q. Okay. The next sentence indicates, "The</p> <p>7 opinions expressed in the report are true and correct</p> <p>8 to a reasonable degree of scientific certainty."</p> <p>9 Can you explain that statement to me?</p> <p>10 A. Well, I guess you would say, to my</p> <p>11 knowledge, everything I'm saying is true there. When</p> <p>12 you're talking about scientific, I guess I know a</p> <p>13 little bit about the process of building a pipe, and</p> <p>14 that's probably what I meant by that.</p> <p>15 Q. Okay.</p> <p>16 A. I know how a steam pipe system works, I</p> <p>17 know how a hot water system works. That's --</p> <p>18 essentially, that's what I meant.</p> <p>19 Q. Okay. But "reasonable degree of scientific</p> <p>20 certainty," I mean, what does that mean like as far</p> <p>21 as --</p> <p>22 A. There's different --</p> <p>23 Q. What do you mean?</p> <p>24 A. There's different ways that systems work.</p>	<p>1 scientist; is that fair?</p> <p>2 A. That's correct, sir.</p> <p>3 Q. Okay. Now, sir, referring to your</p> <p>4 October 18th, 2011 report, I want you to tell me,</p> <p>5 were you asked by Cascino Vaughan to draft that</p> <p>6 report?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Okay. When did you start drafting the</p> <p>9 report?</p> <p>10 A. I don't remember the exact date, sir. But</p> <p>11 I worked on it for a couple of weeks.</p> <p>12 Q. Well, how far like -- when you say not the</p> <p>13 exact date, we'll say the final product would have</p> <p>14 been when you signed it on October 18, 2011. That's</p> <p>15 fair, right?</p> <p>16 A. That's fair.</p> <p>17 Q. So it's a couple weeks prior to that that</p> <p>18 you decided to write the report?</p> <p>19 A. I believe it was probably about two to</p> <p>20 three months, because what I did is I would jot down</p> <p>21 notes as I was doing different things during the day,</p> <p>22 and I would sit down and try to put things together</p> <p>23 to the best of my knowledge.</p> <p>24 Q. Okay. But what you're putting down on</p>
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<p>1 There's different things you have to do in a steam</p> <p>2 system. There's other things you have to do with a</p> <p>3 hot water system or cold water system or air system.</p> <p>4 There's so many different kinds of liquids</p> <p>5 or gases that go through piping that a lot of times</p> <p>6 you have to have a knowledge of what's in there so</p> <p>7 you know exactly how you can run the piping. There's</p> <p>8 certain deals you have to do.</p> <p>9 Steam piping, you have to pitch a certain</p> <p>10 way so it doesn't collect water and cause problems.</p> <p>11 There's a lot of stuff that we call a science which</p> <p>12 is not really a science, but it's a lot of theories</p> <p>13 that we have to use when we're putting piping in.</p> <p>14 Q. Okay. But when you say, "I express these</p> <p>15 opinions to a reasonable degree of scientific</p> <p>16 certainty," I mean, does that -- what does that mean?</p> <p>17 A. Well, when I was an apprentice, they called</p> <p>18 it a science class. It was actually a physics class</p> <p>19 on properties of water, how it worked under certain</p> <p>20 situations, piping that we done that contained steam</p> <p>21 or water, and that's probably where I got the</p> <p>22 "scientific certainty" out of, because it was a</p> <p>23 science class we went to.</p> <p>24 Q. Okay. You don't hold yourself out as a</p>	<p>1 paper is just what's coming out of your mind, right?</p> <p>2 A. That's correct, sir.</p> <p>3 Q. Okay. And looking back over your years of</p> <p>4 work?</p> <p>5 A. That's correct.</p> <p>6 Q. Did you use any references or anything, or</p> <p>7 reference materials, articles, papers, anything like</p> <p>8 that to develop this report?</p> <p>9 A. No, sir.</p> <p>10 Q. Okay. Can you tell me -- can you</p> <p>11 approximate for me how many hours you have in</p> <p>12 drafting this report?</p> <p>13 A. I'm not really sure, sir, but I believe it</p> <p>14 was over 20. I'm not sure.</p> <p>15 Q. Okay. Were you paid hourly for that? Was</p> <p>16 it a flat fee for the report?</p> <p>17 A. Hourly.</p> <p>18 Q. Okay. Well, how much were you paid for the</p> <p>19 report?</p> <p>20 A. I don't remember offhand, sir.</p> <p>21 Q. Was it still \$50 an hour?</p> <p>22 A. That's correct, sir.</p> <p>23 Q. So you said roughly 20 hours. That's like</p> <p>24 1,000 bucks?</p>

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1 A. That's probably fair.

2 Q. Was it any more than that?

3 A. I'm not really sure, sir. That's been a
4 couple years ago.

5 Q. Okay. Are you told by Cascino Vaughan when
6 they're producing your report in a case?

7 A. Would you repeat that, sir?

8 Q. Are you told by Cascino Vaughan when
9 they're producing your report, your general report,
10 in a case?

11 MR. HANBURY: Well, I'm going to object.
12 I'm also going to -- under Rule 26, any
13 communications between the witness and my law firm
14 are privileged, with the exception of any
15 information, knowledge, facts, data, that he relied
16 upon in formulating his opinion.

17 BY MR. SIGURDSON:

18 Q. All right. I can ask the question a
19 different way.

20 Do you have to be retained in a case for
21 them to produce your report?

22 A. Do you mean I have to be physically here
23 for them to use my report? Is that what you're
24 asking me?

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1 Q. No, like -- I mean, do you hold yourself
2 out as an expert? Do they retain you before they
3 produce your report in a case?

4 A. I'm really not sure. Do you mean
5 physically retain me or just get my okay to use my
6 report?

7 Q. All right. In your words, get okay, yes.

8 Let me ask you this. What parameters do
9 you put on them for using your report?

10 A. The report is to be used by them in
11 asbestosis cases, if that's what they're -- asbestos
12 cases, if that's what you're getting to. Yes, they
13 have my permission to use --

14 Q. Do they pay you a -- go ahead. I don't
15 want to talk over you.

16 A. I said yes, they have my permission to use
17 this report in asbestos cases.

18 Q. Okay. Do they have to pay you a fee for
19 using it in a case, or do they just have license to
20 use it anywhere they want?

21 A. They don't pay me a fee for it, no.

22 Q. Okay. Do they pay you a fee for retaining
23 your services in a case?

24 A. Yes, sir.

1 Q. Okay. What -- how much is that? What do
2 they pay you?

3 A. The basis is \$50 an hour.

4 Q. Okay. So what does that include, like prep
5 time in a case or what?

6 A. If there is any prep time, but most of the
7 cases I've deposed so far, there has been no prep
8 time. It's just general knowledge that I use when
9 you ask me questions.

10 Q. Okay. Well, I'm paying you now, so they're
11 not paying you in the Toon case then, I assume,
12 right?

13 A. You said you're paying me, sir?

14 Q. Well, I mean, I'm paying you for your time
15 to give this deposition, sure.

16 A. I appreciate that, sir.

17 Q. Okay. What I mean is, other than your fee
18 for the deposition today, are you being paid in
19 the -- in the Toon case so far?

20 A. No, sir.

21 Q. Okay. But you -- ostensibly, if you're
22 called at trial, they would pay you?

23 A. I would imagine somebody would pay me.

24 Q. Okay. So, if they called you at trial,

1 what's your fee arrangement with them?

2 A. I've never had the -- I've never had that
3 happen so far, so I guess I'd have to negotiate with
4 them what we would do if we got to that point.

5 Q. Okay. Would it still be the same \$50 an
6 hour?

7 A. I would imagine so, sir.

8 Q. Do you charge for travel time?

9 A. Yes, sir.

10 Q. Okay. So you have -- you have ties to the
11 Toon case based upon travel time; is that right?

12 A. Yeah, to get to the office here today.

13 Q. Okay. Other than time to get to the
14 office, any other fees associated with this case that
15 you charged or plan to charge Cascino Vaughan for,
16 outside of this deposition?

17 A. No, sir.

18 Q. Okay. Sir, what has been marked as
19 Exhibit 1, again, is your October 18, 2011 report.
20 Have you made any amendments to this report?

21 A. No, sir.

22 Q. Have you been asked to?

23 A. No, sir.

24 Q. Okay. Is there anything that you plan on

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<p>1 adding to it?</p> <p>2 A. Not offhand, sir.</p> <p>3 Q. Okay. With respect to your report, sir, if</p> <p>4 you -- do you have the report in front of you?</p> <p>5 A. Yes, I do.</p> <p>6 Q. Okay. With respect to your report, I'm</p> <p>7 looking at Page 1 here, and with respect to the</p> <p>8 second paragraph, you indicate, "I began work as a</p> <p>9 pipefitter apprentice with Local 597 based in</p> <p>10 Chicago, Illinois in 1953."</p> <p>11 Do you see that?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Okay. The next sentence indicates, "I</p> <p>14 became a journeyman in 1958 and retired from work as</p> <p>15 a pipefitter in 2002."</p> <p>16 Can you tell me briefly what the</p> <p>17 apprenticeship entailed beginning in '53, so it was a</p> <p>18 five-year apprenticeship?</p> <p>19 A. Yes, sir. It was at Washburne Trade</p> <p>20 School. We had four classes. We had welding,</p> <p>21 science, math and basic rigging knowledge in lifting</p> <p>22 of materials and stuff like that, and general safety.</p> <p>23 Q. Okay. Now, can you explain to me what does</p> <p>24 the term "journeyman" mean?</p>	<p>1 commercial facilities," correct?</p> <p>2 A. That's correct, sir.</p> <p>3 Q. When you say "powerhouses," what do you</p> <p>4 mean?</p> <p>5 A. I'm talking about powerhouses for</p> <p>6 electricity owned by Edison.</p> <p>7 Q. Okay. You mean like a coal-fired power</p> <p>8 plant like a utility?</p> <p>9 A. Coal-fired, gas-fired, atomic.</p> <p>10 Q. Okay.</p> <p>11 A. A whole bunch.</p> <p>12 Q. Oh, go ahead.</p> <p>13 A. I said all the different powerhouses.</p> <p>14 There was coal-fired, there was gas-fired, and of</p> <p>15 course the nuclear powerhouses.</p> <p>16 Q. Okay. But do you mean like a large public</p> <p>17 utility? Is that what you mean when you use the</p> <p>18 phrase "powerhouse"?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Okay. What do you mean by "other</p> <p>21 industrial and commercial facilities"?</p> <p>22 A. There was a lot of small plants that I</p> <p>23 worked in off and on with different smaller</p> <p>24 contractors, glue plants where they made glue, where</p>
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<p>1 A. Journeyman means that you are a</p> <p>2 full-fledged journeyman, that you can take and go out</p> <p>3 and solicit jobs for yourself or hire out through the</p> <p>4 hall. Otherwise, you're a qualified pipefitter,</p> <p>5 you've learned your trade and you graduated from</p> <p>6 school.</p> <p>7 Q. Okay. And then how much of your work from</p> <p>8 1958 to 2002 was hands-on pipefitter work? I think</p> <p>9 we talked a little bit about that before, but if you</p> <p>10 could break it down for me.</p> <p>11 How many years, if you can approximate, was</p> <p>12 actually hands-on work and versus like supervision</p> <p>13 work?</p> <p>14 A. Probably about five years of hands-on work</p> <p>15 and about 40 years of supervision.</p> <p>16 Q. I want to make sure I have that right. Did</p> <p>17 you say five years of hands-on work and 40 years of</p> <p>18 supervision?</p> <p>19 A. That's correct, sir.</p> <p>20 Q. Okay. The next sentence indicates, "As a</p> <p>21 pipefitter I worked at powerhouses, refineries,</p> <p>22 chemical plants, large office buildings, high rise</p> <p>23 buildings, governmental facilities, hospitals, food</p> <p>24 processing plants, schools, and other industrial and</p>	<p>1 they made envelopes, places that made paper for</p> <p>2 Xerox, a multitude of little factories all over the</p> <p>3 Chicago area. We were always in and out of those</p> <p>4 places doing little jobs for them.</p> <p>5 Q. Okay. And you told me before that you'd</p> <p>6 never done any railroad pipefitting work for a</p> <p>7 railroad on a railroad premises, right?</p> <p>8 A. That's correct, sir.</p> <p>9 Q. Okay. The next sentence indicates, "I</p> <p>10 served as a foreman, general foreman, and</p> <p>11 superintendent for many of my jobs." Okay?</p> <p>12 A. Yes, sir.</p> <p>13 Q. But just for purposes of the record -- did</p> <p>14 you say something?</p> <p>15 A. No, sir, I didn't.</p> <p>16 Q. Okay. Did your attorney say something?</p> <p>17 MR. HANBURY: No, nobody said anything.</p> <p>18 MR. SIGURDSON: Oh, okay. That's fair.</p> <p>19 BY MR. SIGURDSON:</p> <p>20 Q. Now, as far as you told me, you never</p> <p>21 worked for a railroad, so you've never supervised</p> <p>22 railroad employees, just for purposes of the record,</p> <p>23 right?</p> <p>24 A. That's correct, sir.</p>

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1 Q. Okay. Moving down, you indicate, "I am
2 familiar with the union jurisdictional lines for the
3 work of the pipefitters and the practices and
4 procedures in the settings above," right?
5 **A. That's correct, sir.**
6 Q. Now, the settings above is what we talked
7 about before, right, powerhouses, refineries,
8 chemical plants, et cetera, et cetera, et cetera,
9 right?
10 **A. Yes, sir.**
11 Q. Okay. But you're not familiar, like you
12 told me before, with railroad unions or crafts that
13 railroad employees are a member of, right?
14 **A. That's correct, sir.**
15 Q. All right. You told me you don't know the
16 duties of a railroad steamfitter helper as you sit
17 here today, right?
18 **A. That's correct, sir.**
19 Q. And you told me you do not know anything
20 about the maintenance of railroad cars, right?
21 **A. That's correct, sir.**
22 Q. Okay. And you told me early knowledge
23 regarding the heating systems in passenger coaches
24 comes from your knowledge of actually just sitting in

1 **house or wherever it is. That's the experience I'm**
2 **going on.**
3 Q. But that's your speculation, right, because
4 I mean, you don't have a foundation for that?
5 **A. Yes, sir.**
6 Q. You've never worked there. Your foundation
7 for your report is the work that you've done as a
8 pipefitter, right? You told me that.
9 **A. That's correct, sir.**
10 Q. But you have absolutely no knowledge about
11 how railroad crafts perform their jobs. You told me
12 you've never seen it, you've never done it, so it's
13 only your speculation, right?
14 MR. HANBURY: Object to form, also asked
15 and answered.
16 BY MR. SIGURDSON:
17 Q. You can answer.
18 **A. A pipefitter is a pipefitter, sir. Whether**
19 **he's working on a railroad car or he's working in a**
20 **powerhouse or refinery, he does the same type of work**
21 **with the same materials. He's a pipefitter.**
22 Q. But you don't disagree with me, you've
23 never seen it done and you've never done it yourself
24 with respect to work on railroad cars, right, in

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1 a coach, right, not from your professional experience
2 as a pipefitter, right?
3 **A. I would say it's my professional experience**
4 **as a pipefitter because, like I told you before, a**
5 **steam system is a steam system. The pipe is run the**
6 **same way whether it's on a railroad or whether it's**
7 **in a powerhouse. It's still steam piping.**
8 Q. So, in your opinion, there's actually no
9 difference?
10 **A. That's correct, sir.**
11 Q. Okay. But as far as -- you don't know
12 anything about the maintenance of steam systems on
13 railcars; is that fair? I mean, other than maybe
14 your own speculation, but you've never done it?
15 **A. I've never done it, sir. No.**
16 Q. And you've never seen it done?
17 **A. No, sir, I've never seen it done.**
18 Q. And you've never read any manuals to the
19 extent they exist for that type of work, right?
20 **A. The manual that would be put out for that**
21 **type of work would probably be the same as any manual**
22 **put out for steam piping, sir, or the certain piping**
23 **that they do in there. The piping is all the same**
24 **whether it's on a train or on a -- or in a boiler**

1 railroad shops?
2 **A. That is correct, sir.**
3 Q. Okay. You have no idea about that. You're
4 agreeing with me, right?
5 MR. HANBURY: Object to form, asked and
6 answered.
7 BY MR. SIGURDSON:
8 Q. You can answer.
9 **A. I don't know exactly what they do in their**
10 **shops. But if they do piping, I know exactly what**
11 **they're doing, sir, because the piping is the same no**
12 **matter if it's on the railroad car or if it's in a**
13 **powerhouse. I'm going to repeat it again:**
14 **Pipefitting is pipefitting.**
15 Q. Sir, if we move down to -- I have it
16 numbered as Paragraph 5, we'll say, Page 1 of your
17 report, okay? 1.
18 MR. HANBURY: The paragraph beginning,
19 "Portions of the system?"
20 BY MR. SIGURDSON:
21 Q. Actually, I'm sorry. It's Paragraph 4.
22 **A. Okay.**
23 Q. Where you say, "Pipefitters set turbines,
24 pumps, compressors, heat exchangers, vessels, control

15 (Pages 57 to 60)

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1 valves, packaged and smaller sectional boilers, and
2 other equipment in place on the industrial,
3 commercial, and government owned job sites," do you
4 see that?

5 **A. Yes, sir.**

6 **Q.** Now, with respect to that statement, sir,
7 are you describing new installations there?

8 **A. New installations, could be remodeling**
9 **installations. It could be either one.**

10 **Q.** Okay. The next phrase indicates,
11 Pipefitters worked on mechanical systems and
12 installed pipe, fittings, valves, and flanges
13 connecting to equipment and systems -- connecting to
14 equipment and systems, and installed pipe. I'm
15 reading it wrong.

16 The next sentence indicates, "Pipefitters
17 worked on mechanical systems and installed pipe,
18 fittings, valves, and flanges connecting to equipment
19 and in other places on the system."

20 Are you describing new installation there
21 or repair?

22 **A. It could be either one, sir.**

23 **Q.** Okay. Because is the next -- well, I asked
24 you that. On Page 2, you indicate, it looks like to

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1 me during remodeling, maintenance and repair. It
2 seems like your repair section is there, and
3 Paragraph 4 here looks more like new installation. I
4 mean, is that -- am I interpreting that wrong?

5 **A. Well, it could be either way, sir. The**
6 **reason I wrote that paragraph on the second page is**
7 **probably more that we have to take asbestos**
8 **insulation off when we do repair, while we put it in**
9 **new, we don't have to.**

10 **Q.** Okay. But I'm saying, I mean, does it
11 sound like there that Paragraph 4 here is more new
12 installation work, but installation work a pipefitter
13 would do, or am I taking that wrong?

14 **A. No, I guess you could say that.**

15 **Q.** Okay. So you're agreeing with me, I -- is
16 that fair?

17 **A. That's fair, sir.**

18 **Q.** Okay. So, moving now to -- now we're on to
19 5, where you say, "Portions of the system also had to
20 be disconnected to realign or even replace the
21 equipment."

22 Now, in that paragraph, were you still
23 describing new installation from a pipefitter's
24 installation duties?

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1 **A. That could be on either one, too, sir. But**
2 **most of the time what I'm talking about on that is we**
3 **initially hook up a pump or a turbine, and then it**
4 **would have to be disconnected later on for the**
5 **millwrights to come and align the motors and all this**
6 **stuff to make sure that that there was no undo**
7 **pressures on couplings or drivers for the pumps.**
8 **That's what that paragraph was about.**

9 **Q.** Okay. So we're talking about a new
10 installation, getting a system online; is that fair?

11 **A. That's correct, sir.**

12 **Q.** Okay. Now, if we go to the next paragraph,
13 where you say, "I was able to distinguish asbestos
14 and nonasbestos pipe covering materials (e.g., block
15 and sections) based on my training on the job,
16 specific training after 1988 to recognize materials,
17 and seeing the materials which were subjected to the
18 asbestos abatement procedures in later years."

19 Do you see that?

20 **A. Yes, sir.**

21 **Q.** Okay. What training on the job did you
22 receive regarding distinguishing asbestos from
23 nonasbestos pipe covering materials? Can you tell me
24 that?

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1 **A. It was common knowledge after the asbestos**
2 **scare came out, I guess in the '70s. We used to work**
3 **very close with the pipe coverers, and a lot of the**
4 **boxes would be marked as asbestos, and you were**
5 **pretty well aware of what was asbestos and what**
6 **wasn't asbestos by just looking at the stuff because**
7 **over the years you've seen the same stuff on other**
8 **jobs, and that's what I meant by that particular**
9 **part.**

10 **Q.** Okay. But can you distinguish -- you say
11 you can distinguish asbestos-containing insulation
12 from an insulation that does not contain it? I mean,
13 I'm talking absent labeling. I mean, if you see
14 something comes in a box and it's labeled "Asbestos,"
15 okay, but what if the materials aren't labeled?

16 **A. The materials aren't labeled if you --**
17 **they're broken apart and you can tell by the**
18 **composition of the pieces. About the only piping**
19 **back in those days that did not have asbestos**
20 **insulation on them was the cold water piping, and**
21 **once in a while that would have it on there, too. A**
22 **lot of times they had the spun glass insulation on,**
23 **so that wasn't asbestos. Most of the other stuff**
24 **was.**

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<p>1 Q. Okay. When you say "spun glass," you mean</p> <p>2 like fiberglass?</p> <p>3 A. Yes, sir.</p> <p>4 Q. So you're saying you could tell asbestos</p> <p>5 from fiberglass; is that fair?</p> <p>6 A. You sure could.</p> <p>7 Q. Can you tell asbestos from rockwool?</p> <p>8 A. Most of the rockwool had asbestos in it.</p> <p>9 Q. Why do you say that? What's your basis for</p> <p>10 that?</p> <p>11 A. Just I guess you would say experience over</p> <p>12 the years.</p> <p>13 Q. Okay. Can you tell asbestos from mineral</p> <p>14 wool, or is that the same thing as rockwool, in your</p> <p>15 opinion?</p> <p>16 A. The same thing. As far as I'm concerned,</p> <p>17 it's the same thing.</p> <p>18 Q. Okay. What -- when you refer to specific</p> <p>19 training after about 1988 to recognize materials, I</p> <p>20 assume the same materials which were subject to</p> <p>21 asbestos abatement.</p> <p>22 Now, what sort of training did you receive</p> <p>23 in 1988 regarding the identification of</p> <p>24 asbestos-containing products?</p>	<p>1 alongside the pipe coverer who was putting this stuff</p> <p>2 on, and we're all friends, we're all on the same</p> <p>3 jobs, we all talk together and everything else, it</p> <p>4 was very common knowledge what was asbestos and what</p> <p>5 wasn't.</p> <p>6 Q. Okay. I'm just talking right now about</p> <p>7 your specific training after about 1988 to recognize</p> <p>8 materials, your statement here. I just want to know</p> <p>9 your basis for that.</p> <p>10 A. Just common knowledge, sir.</p> <p>11 Q. So when did common knowledge become</p> <p>12 specific training?</p> <p>13 A. I guess I must have wrote that wrong in</p> <p>14 there. Probably a little egotistical on that, wasn't</p> <p>15 I?</p> <p>16 Q. Okay. And then you said, "seeing the</p> <p>17 materials that were subjected to asbestos abatement</p> <p>18 procedures in later years."</p> <p>19 Is that also after '88?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Okay. Where are you seeing asbestos</p> <p>22 abatement, like what industries?</p> <p>23 A. Almost all industries that we worked in,</p> <p>24 sir, schools, powerhouses, refineries, chemical</p>
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<p>1 A. Well, it would -- when it happened after</p> <p>2 the late '80s, when they finally put some teeth in</p> <p>3 the laws about asbestos, they would come in and they</p> <p>4 would test for asbestos to start with, and they would</p> <p>5 inform us if there was asbestos on the piping that we</p> <p>6 were going to work on, or in the area in the room</p> <p>7 that we were in or something. And if there was,</p> <p>8 they'd usually take and they would rope that area off</p> <p>9 so you couldn't get in there. They would bring the</p> <p>10 asbestos-removal people in there, and that's how we</p> <p>11 gained our knowledge on that stuff.</p> <p>12 Q. Okay. So you're saying if you're in a</p> <p>13 particular facility and they're having sample work</p> <p>14 done, or survey work, you're told as a -- as a</p> <p>15 contractor there, a pipefitter there, regarding the</p> <p>16 asbestos in the area?</p> <p>17 A. That's correct, sir, and we were not</p> <p>18 allowed to go in that area until asbestos was</p> <p>19 removed.</p> <p>20 Q. Okay. But how does that -- other than</p> <p>21 knowing that asbestos must be there, how does that</p> <p>22 train you in identifying asbestos product?</p> <p>23 A. Well, I'd say by being hands-on experience</p> <p>24 over the years and seeing stuff and working right</p>	<p>1 plants. A lot of these places were built before the</p> <p>2 asbestos restrictions, and a lot of places have been</p> <p>3 running for years and years and years. The asbestos</p> <p>4 has never been disturbed until we actually go in the</p> <p>5 area, and then we might have to disturb something.</p> <p>6 Q. Okay. Have you played any role yourself in</p> <p>7 asbestos abatement?</p> <p>8 A. No, sir, I haven't.</p> <p>9 Q. Okay. Your next sentence indicates, "My</p> <p>10 responsibilities as a supervisor after about 1988</p> <p>11 including recognizing such materials for the safety</p> <p>12 of the crews working under me."</p> <p>13 What do you mean by that statement?</p> <p>14 A. Well, if we went into a job and the owner</p> <p>15 or the contractor had not checked for asbestos before</p> <p>16 we got there, if we were suspicious, we would go to</p> <p>17 the contractor or the owner, because they were</p> <p>18 responsible for doing this stuff, and have them have</p> <p>19 it checked before we would get started. That's what</p> <p>20 I meant by that particular deal.</p> <p>21 Q. When you say responsible for stuff, what do</p> <p>22 you mean? I mean, they're a customer of yours,</p> <p>23 right? They're a customer of the general contractor</p> <p>24 or the piping contractor, right?</p>

17 (Pages 65 to 68)

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1 A. Well, I'm responsible. If I'm a
2 supervisor, I'm responsible for the guys, not just
3 for installation of the equipment we're putting in or
4 the piping we're putting in, but I'm responsible for
5 them not getting hurt, their welfare, and being able
6 for them to go back to their families every night and
7 do the best I can to keep things safe.

8 Q. Okay. So that's your responsibility to
9 your men, your employees?

10 A. My men, my employees, and the contractor I
11 worked for, because --

12 Q. Okay.

13 A. -- it all goes back to one thing. It's
14 going to affect the contractor and the owner in the
15 long run if we don't take care of it to start with.

16 MR. SIGURDSON: Okay. Can we go off the
17 record for a moment, ma'am?

18 MR. HANBURY: Sure.

19 (WHEREUPON, a recess was taken.)

20 BY MR. SIGURDSON:

21 Q. Sir, we're still on Page 2 of your report,
22 and I'll call it the first full paragraph, okay?

23 A. Okay.

24 Q. Where it starts, "During remodeling," do

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1 A. A lot of times, sir, when we'd go in an old
2 building or a rehab job, a lot of the old boilers
3 would have to be re-tubed because of age and wear,
4 and when you done that, you usually took and
5 re-worked the whole boiler. That meant exterior
6 piping, piping that was -- control piping on the
7 boiler itself. Actually, all the piping that had
8 anything to do with the boiler.

9 Q. Okay. My question is only limited to
10 fixing leaks on piping associated with boilers, not
11 re-tubing of boilers, okay?

12 A. That's correct, sir.

13 Q. All right. When you say "usually contained
14 asbestos" with respect to the in-place pipe
15 insulation, what's your basis for that?

16 A. Most of the rehab work you do was probably
17 put in in the '40s, '50s, or even before that, and
18 it's a known fact that almost all the insulation that
19 was on the old systems before the '70s was old, a lot
20 of it was asbestos-containing.

21 Q. Okay. Why is it necessary, in your
22 opinion, to get to the gaskets? I mean, in fixing a
23 leak.

24 A. Maybe the flange was leaking, and that's

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1 you see that?

2 A. Yes, sir.

3 Q. Okay. That paragraph indicates -- or that
4 sentence, "During remodeling, maintenance, repair, or
5 rehab work before about 1988, pipefitters had to
6 remove in-place pipe insulation, which usually
7 contained asbestos, from piping and valves to get to
8 the gaskets."

9 Now, what kind of maintenance and repair
10 work are you referring to there?

11 A. Almost anything that we went into a
12 building to, say, rehab it, they might want to move
13 the piping on account of new lights or whatever.
14 Maybe the piping was old and leaking, we might have
15 to replace it. Many different reasons that we would
16 do rehab or re-work or maintenance work.

17 Q. Okay. Would that be applicable to repair
18 work to boilers?

19 A. That's correct, sir.

20 Q. Associated with boilers?

21 A. Yes, sir.

22 Q. Now, repairing of leaks on boilers -- I'm
23 sorry. Repairing the leaks associated with piping on
24 boilers.

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1 where the gasket would be.

2 Q. Okay. If the pipe was leaking somewhere
3 else, is it still necessary to change the gaskets?

4 A. A lot of times you would because we don't
5 cut into piping until we open it up and have it
6 checked to make sure there's nothing volatile inside.

7 Q. Okay. So you're removing sections of pipe;
8 is that fair?

9 A. That's correct, sir.

10 Q. Okay. Your next sentence indicates,
11 "Pipefitters also had to remove the insulation which
12 covered safety and specialty valves on the equipment
13 that had to be tested and, as needed, rebuilt or
14 replaced." Can you explain that statement to me?

15 A. Yes, sir. All boilers have what they call
16 relief valves in them, or safety valves, whatever you
17 want to call them, and those were put on there to
18 protect the equipment and anybody that's working in
19 the area in case of something was wrong with the
20 control and maybe the gas burner didn't turn off,
21 maybe the pressure was getting too high, many things,
22 and that relief valve would relieve the pressure off
23 the vessel or the boiler to the outside atmosphere
24 someplace so you didn't cause an explosion.

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1 Q. Okay. And what is your basis for that
2 statement, sir?

3 A. Practical knowledge.

4 Q. Okay. Your working knowledge or hands-on
5 work, fair?

6 A. That's correct, sir.

7 Q. Okay. In what application is this work
8 being performed, can you tell me that?

9 A. Almost anyplace that the boiler is --
10 anyplace that steam boiler work is being worked on.
11 That's in powerhouses, refineries, almost everyplace
12 that we went, there was a boiler of some kind.

13 Q. Okay. So, if you're fixing leaks on piping
14 associated with the boiler, would this work be done?

15 A. Would you repeat that, sir?

16 MR. SIGURDSON: Ma'am, would you read it
17 back to him?

18 (WHEREUPON, the record was read by the
19 court reporter.)

20 BY THE WITNESS:

21 A. When would this work be done? This work
22 would be done when the boiler shut down and they
23 would call -- they would shut the building down for a
24 while, or the process, or whatever the situation

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1 might be, because you can't work on piping on a
2 boiler when the boiler is active.

3 BY MR. SIGURDSON:

4 Q. Okay. But your -- in your opinion, this
5 work will be done, though, in a shutdown of a boiler
6 in repairing leaks on associated piping?

7 A. That's correct, sir.

8 Q. Okay. The next sentence indicates, "Before
9 pipefitters reinstalled new gaskets after equipment"?

10 A. Yes, we did reinstall new gaskets.

11 Did he get cut off?

12 Q. Just a minute, sir. I'm trying to find
13 something. I'm sorry.

14 A. Okay.

15 Q. Here we go.

16 "Before pipefitters reinstalled new gaskets
17 after the equipment testing or realignment was
18 completed, they had to clean all flange facing of old
19 adhered gasket material." What do you mean by that
20 statement?

21 A. All right. On old piping that had been in
22 there for years or whatever, when you broke an old
23 flange apart, there's usually a Garlock gasket or
24 some composition gasket in there, and over the years

1 it had become brittle or had adhered to the face of
2 the flange.

3 Now, to make a new seal when you put that
4 flange back together, you had to get back to the
5 original face of that flange, so you would have to
6 clean up all that residue or pieces that were stuck
7 to the flange, and that was very prevalent. No
8 matter what flange you broke apart, there was always
9 parts of a gasket stuck to it.

10 Q. Okay. What do you mean by "equipment
11 testing or realignment"?

12 A. Every so often, they would want to take --
13 especially on pumps or turbines, they would want you
14 to break the flanges connections to them so they
15 could make sure that the pump was still aligned, or
16 if the pump was having a little problem, maybe wasn't
17 running right or chattering a little bit, it possibly
18 was out of line, so we would have to disconnect the
19 piping so they could realign it again and then work
20 the piping to the pump.

21 Q. Okay. And what types of repairs involved
22 equipment testing in real life?

23 A. Well, any time you broke a system apart,
24 you would have to retest it to make sure the

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1 integrity was there, and most pumps and turbines you
2 did not test through. You would blind that situation
3 off, test the piping, and then you would go back and
4 hook up the pump in the piece of equipment later.
5 Most of the equipment was tested by the manufacturer
6 before it got to the job, and it was unnecessary to
7 test most of that stuff unless we were doing rehab
8 work on it. Then we would test it ourselves.

9 Q. Okay. The next sentence indicates,
10 "Pipefitters usually had to repack the steam valves
11 on the lines going to the turbines, pumps, or other
12 equipment on piping integral to the situation."

13 What do you mean by that statement, and can
14 you explain that to me?

15 A. All right. On your valves, and a lot of
16 places where you have shafts and stuff that operate
17 pumps and different things, you have what they call a
18 packing that goes around it. It's like a seal. And
19 from the heat especially on steam lines, that packing
20 would get dried out and brittle and it would outlive
21 its usefulness. We would have to take and dig that
22 old packing material out of there and put fresh new
23 packing material in there.

24 Q. Okay. When you say "turbines, pumps, or

19 (Pages 73 to 76)

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1 other equipment on piping integral to the situation,"
2 what do you mean by that?

3 A. What I'm saying is any piping that hooks to
4 a piece of equipment is something that's integral to
5 that system, and any time we worked on any part of
6 that system that came from that pump or that turbine,
7 we would have to blank it off, we'd have to work on
8 flanges, we would have to probably repack valves.
9 That's what I meant by that system -- or statement.

10 Q. Okay. Now, your next sentence indicates
11 that, "Pipe coverers usually came on the job after
12 the pipe covering had been removed from most of the
13 piping."

14 Now, what is your basis for that statement?

15 A. Most of the time when we went on a job to
16 do a rehab job where pipe covering had to be taken
17 off, it was a sporadic job. It wasn't something that
18 we just went in and done it all at one time. We
19 might do it over a -- the time period of a week.
20 Say, you know, a little bit here, a little bit there,
21 depending upon the system we worked on.

22 We never tore it apart, the covering off,
23 until we were actually done, ready to work on that
24 particular system that had to be repaired, and it

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1 wouldn't pay for a pipe coverer contractor to be on
2 the job to be there to take that pipe covering off,
3 so they always gave us permission to take it off, but
4 they would be responsible for putting it back on
5 after we completed our work.

6 Q. Okay. Sir, if we move on to Page 3, the
7 second full paragraph on Page 3, if you'd locate that
8 for me.

9 A. Yes, sir.

10 Q. Where it says, "During shutdowns, outages,
11 turnarounds, or other major maintenance work, gasket
12 removal and replacement was required."

13 What do you mean by "shutdowns"?

14 A. A shutdown is when you turn the system
15 down. Say you're working in a powerhouse on a
16 boiler. You would turn that boiler down, let it cool
17 down, and by saying that all these gasket removals
18 would have to be done is you would have to go along
19 and disconnect all equipment and make sure that
20 everything was out of the line before you started
21 working on it. And by breaking all these flanges
22 that went to different equipment, it meant you had to
23 reclean the flanges and put in new gaskets
24 afterwards, when you put it back together.

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1 Q. Okay. But if you're fixing leaks
2 associated with piping on a -- on a steam boiler,
3 would you only be taking out sections of pipe that
4 were leaking?

5 A. Yes, sir.

6 Q. Okay. What is a turnaround? Can you tell
7 me that?

8 A. A turnaround is a shutdown in a -- in a
9 refinery. They call them turnarounds, and that's
10 when they shut down one particular unit, like maybe a
11 unit that makes gasoline or a unit that makes diesel
12 fuel or a unit that makes maybe airplane fuel, or
13 possibly a coker, which makes coke. It depended upon
14 the unit you turned around, and that's what they call
15 a turnaround.

16 Q. Okay. And what are you referring to as
17 other major maintenance work?

18 A. Major maintenance work might be any place
19 on any particular job, refinery, chemical plant,
20 boiler house. It could be something that could be
21 done without turning the actual place down. It could
22 be a line that they could isolate and you could work
23 on at the same time the unit or the boiler was
24 working, whatever equipment they were talking about.

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1 We could work on this one particular line without
2 turning things down.

3 Q. Okay. What do you mean by the statement
4 "gasket removal work and replacement was required"?
5 What does that mean?

6 A. Any time that you went in to work on a
7 system before -- we did a lot of welding and cutting
8 on piping in these big major places, refineries and
9 boiler houses and everything else, and before we
10 would take a torch to any of these things, we would
11 have to break open a few flanges so we could go in
12 and make sure there was nothing volatile in the
13 piping, because if we put a torch to it we could have
14 a pretty good size explosion.

15 Q. Okay. The next sentence indicates,
16 "Pipefitters did the gasket removal work in all
17 maintenance situations."

18 What do you mean by that? Do you mean like
19 jurisdictionally like they couldn't cross crafts or
20 what?

21 A. No, it's just a general statement that
22 almost all equipment -- I'm talking about pumps,
23 specialty equipment. A lot of times the large trap
24 assemblies would separate steam from water, storage

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1 tanks. They all had flange connections, and any time
2 we would go in on a shutdown, if any part of that
3 system or piece of equipment had to be worked on, we
4 would have to disconnect the piping to it, and they
5 were all flanged gaskets, and it was all the working
6 pipefitter.

7 Q. Okay. You indicate in the next sentence
8 that, "The frequency of gasket work was at least
9 annually for all industrial and larger commercial
10 sites and could be more often."

11 What is your basis for that statement?

12 A. Most places, the large industrial places,
13 refineries, stuff like that, like to have major
14 shutdowns probably every 18 months, two years,
15 depending upon the use and wear and tear that they
16 have inside the piping, depending upon the products
17 they're carrying inside there, and they schedule them
18 so that you can go in and make sure if anything is
19 getting worn or possibly having a problem with it,
20 that you can replace it before it breaks loose and
21 has a leak and maybe causes a fire or we had an
22 explosion or something.

23 Q. Okay. I mean, is that statement true for
24 repairing leaks on piping associated with steam

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1 boilers?

2 A. Yes, sir.

3 Q. Okay.

4 A. Could I make a statement here?

5 Q. Well, go ahead. What were you saying, are
6 you going to finish your answer or what?

7 A. I was going to say years ago, on steam
8 boilers especially, what they used to do is they used
9 to drill a little hole on the pipe. Your pipe wall
10 would be, say, a half inch thick. They would drill a
11 hole on the outside that would be about maybe a
12 quarter inch deep into the pipe, and when that pipe
13 wore out on the inside and got down to that quarter
14 inch, you would get a tiny little steam leak that
15 would leak out this hole and they would know it was
16 time to change the pipe. So that was one of the ways
17 that they would schedule their shutdowns and
18 maintenance work. That was an old trick they used --

19 Q. Okay.

20 A. -- back in the '40s.

21 Q. The next sentence indicates, "Whenever a
22 flange was opened, the gasket was replaced."

23 Why would you need to open a flange?

24 A. I explained that before. Any time you work

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1 on a system, the first thing you would do is try to
2 break a flange open to make sure there was nothing
3 volatile in the system, and almost any time you had a
4 shutdown or any kind of repair, they'd usually want
5 to check the piece of equipment that was in, whether
6 it would be a pump or a turbine or maybe just a
7 holding tank.

8 They would want to check it, and like I
9 say, all the usually connections to those. The
10 pieces of equipment were usually flanged, and any
11 time you broke a flange apart you cannot reuse the
12 old gasket because the old gasket was not -- you
13 couldn't use an old gasket. You had put new ones in.

14 Q. Okay. So it would also be necessary for
15 you to open a flange when fixing leaks on piping
16 associated with steam boiler?

17 A. That's correct, sir.

18 Q. Okay. In the next sentence you indicate,
19 "The life of most gaskets, in areas which were not
20 opened for other reasons, on the high temperature
21 pipelines was between one to five years depending
22 primarily on pressure and temperature ranges."

23 What do you mean by that statement, sir?

24 A. Well, mostly on steam, your steam

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1 temperatures range up to three, four, 500 degrees
2 depending upon the pressures you're working on. High
3 pressure is usually 125 pounds pressure, and the
4 temperature inside that pipe is about 375 degrees.

5 Heat and cooling have pipe move all the
6 time. Pipe always moves, and especially with steam
7 you get a lot of movement in there. Gaskets get worn
8 and very brittle from that high temperature, and it
9 is smart for every turnaround you have or shutdown
10 which they schedule every year or 18 months is to
11 check a lot of those gaskets, because if they've been
12 maybe loosened a little bit by the movement or
13 something, the bolt has been loosened a little bit,
14 it's better off to change those than have a problem
15 and have to shut down during the normal operation.

16 Q. Okay. In your opinion, what's the life on
17 a gasket on piping associated with a steam boiler?

18 A. If it's undisturbed and it's in a place
19 where it doesn't move much, it could last maybe ten,
20 maybe 15 years. If it's been disturbed or if it's
21 got any movement at all, it might only last a year.

22 They have improved a lot on the gasket
23 situation starting in the '70s, when they came out
24 with the Flexitallics, which endure a lot more heat

21 (Pages 81 to 84)

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1 **and a lot more movement and everything else. But**
 2 **years ago, those gaskets, they used to have to change**
 3 **them quite often.**

4 Q. Okay. Your next sentence indicates,
 5 "Changing gaskets required breaking open flanges and
 6 removal of pipe insulation covering the valves and
 7 flanges."

8 Now, we talked a little bit about this, but
 9 what do you mean by that particular statement?

10 A. Well, most of the piping, especially on
 11 steam, is covered completely except for the actual
 12 flange itself. The flange is held together by bolts.
 13 The pipe covering was run right up to the bolts, and
 14 in order to open that flange up to get at the gasket,
 15 you would have to cut the insulation on either side
 16 to remove the bolts. That's what I meant by that
 17 particular situation.

18 Q. Okay. Would this be done in fixing leaks
 19 associated with a steam boiler?

20 A. Yes, sir.

21 Q. Okay. The next sentence indicates, "Repair
 22 of valves also required the removal of insulation
 23 covering the valves and changing the packings inside
 24 the valves."

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1 What do you mean by that statement?

2 A. Basically, the same thing. In a hot
 3 system, that valve was covered completely, and for us
 4 to get at the packing gland or the flanges, most
 5 valves were flanged, some of the valves on the higher
 6 pressure systems, 125 and above, those would be
 7 welded valves, but you would still have to remove a
 8 part of the covering to get at the -- at the packing
 9 so you could remove the packing and put new packing
 10 in.

11 Q. Okay. Would this work be done in fixing
 12 leaks associated with -- piping associated with a
 13 steam boiler?

14 A. Yes, sir.

15 Q. Okay. Is it always necessary to repair
 16 valves associated with piping when fixing leaks on
 17 piping associated with a steam boiler?

18 A. Yes, sir.

19 Q. Okay. What was your basis for that
 20 statement?

21 A. It's just common knowledge that with all
 22 the heat on there that the packing dries out and it
 23 loses its -- actually, it's light and it doesn't do
 24 its job that it started out to do.

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1 Q. Okay. Sir, if we move on to Page 4, the
 2 bottom of Page 4, you have your opinions section.

3 A. Okay.

4 Q. Do you see that?

5 A. Yes, sir.

6 Q. Okay. Your -- go ahead. You there?

7 A. Yes, sir. I'm here.

8 Q. All right. Your first opinion is, "Before
 9 asbestos testing procedures were implemented about
 10 1988, removal of pipe insulation was done by
 11 pipefitters on all remodeling, maintenance, repair,
 12 or rehab job sites until the pipe coverers came on
 13 the job."

14 Do you see that?

15 A. Yes, sir.

16 Q. What is your basis for that statement?

17 A. That was like I explained before. When we
 18 went on a job to remodel or maintenance or repair,
 19 like I say, whatever, there was piping that was in
 20 there that we might have to remove insulation to work
 21 on the piping or possibly the pump, brake flanges,
 22 whatever it might be, and we would do this as we got
 23 to a system. We would not remove the pipe covering
 24 all at one time, and it didn't pay for a pipe coverer

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1 contractor to have a pipe coverer standing there
 2 doing nothing all day except maybe moving one or two
 3 little pieces of covering, and the pipefitters used
 4 to do it.

5 Q. Okay. Now, what's the basis of that
 6 statement? Can you tell me that?

7 A. The basis of that statement is you have to
 8 remove the covering to get to the piping that you're
 9 going to work on or the flange that you're going to
 10 work on or the piece of equipment.

11 Q. Okay. But that basis comes from what, from
 12 your hands-on work from your observation, right?

13 A. Yes, sir.

14 Q. Okay. Now, your opinion is in no way meant
 15 to be an opinion regarding the work of a railroad
 16 steamfitter on railcars there, right?

17 A. Well, if he's removing covering, it
 18 wouldn't make any difference if it was in the
 19 railroad or if it was on a boiler in the boiler
 20 house. It's the same thing. It's the same piping.

21 Q. What's your basis -- go ahead.

22 What's your basis for that statement that a
 23 railroad steamfitter would do that work?

24 A. Well, the steamfitter that works in the

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1 railroad does the same work as a steamfitter that
2 works in the refinery or a powerhouse or anyplace
3 else. He does the same job. The piping is treated
4 the same way. It's covered with the same type of
5 covering, and when you go to work on the system,
6 whether it's on a railroad car, a railroad engine, a
7 boiler in a powerhouse, whatever it is, it's all the
8 same. It doesn't make any difference. It's just in
9 a different location.

10 Q. Okay. But if the testimony in this case is
11 that a railroad steamfitter, the steamfitter himself
12 says he doesn't work with insulation as a railroad
13 steamfitter, you have nothing to dispute that, right?

14 MR. HANBURY: Object to foundation.
15 BY MR. SIGURDSON:

16 Q. You can answer.

17 A. I guess so, sir, because I don't know of
18 anybody that's never had to remove insulation, but
19 it's possible.

20 Q. Okay. You would have to just defer to his
21 testimony, wouldn't you, on what he did or didn't do?

22 A. I didn't refer to his testimony, so I don't
23 know what he did or what he didn't do, sir. I'm just
24 telling you from my common knowledge.

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1 Q. No, no, no. I didn't say "refer." I said
2 "defer." If the man says, I did X, Y or Z, you would
3 have to take him at his word, would you not?

4 A. That's correct, sir.

5 Q. Okay. So that opinion, sir, is in no way
6 meant to be an opinion regarding the work of a
7 railroad steamfitter helper as well, right? It would
8 only be your speculation. You've never observed that
9 work and you've never done that work, right?

10 A. That's correct, sir.

11 Q. All right. You told me you have no
12 expertise in railroad crafts. You told me that about
13 an hour ago, remember?

14 A. That's right, sir.

15 Q. Okay. You next indicate in Opinion I that,
16 "Pipe coverers usually came on the job the latter
17 half of the project after most of the pipe covering
18 had been removed."

19 Now, what is your basis for that statement,
20 sir?

21 A. Like I mentioned before, the pipe coverer
22 contractor usually couldn't absorb the cost of a pipe
23 coverer being on the job, taking off little pieces of
24 pipe covering here and there. When we seen that we

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1 had enough pipe installed to have a pipe coverer come
2 back in and work on a steady basis, that's when the
3 pipe coverer would come back on the job.

4 Q. Okay. Now, the next sentence indicates --
5 I'm sorry. I'm moving down to Opinion No. 2, okay?

6 The next sentence indicates, "Safety
7 precautions for the removal of pipe covering,
8 gaskets, and other asbestos materials at industrial,
9 commercial, and governmental sites where pipefitters
10 worked were not implemented until the beginning of
11 about 1988."

12 Do you see that?

13 A. Yes, sir.

14 Q. Okay. What is your basis for that
15 statement, sir?

16 A. The basis for that statement, sir, is I
17 believe there in the '70s, when the asbestos came out
18 saying that it was a health problem, nobody took and
19 enforced anything. It was just like the word of
20 mouth around the job beware of asbestos, all this
21 stuff.

22 Around 1988 is when they brought in the
23 asbestos-removal people, and they would test the job
24 before we went on them. They would have

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1 asbestos-removal people come on and take the asbestos
2 off before we went on a job or in the area, wherever
3 it might be. That's what I meant by that statement.

4 Q. Okay. So safety precautions based upon
5 your own observation and your own work in the
6 pipefitters industry, right?

7 A. That's right, sir.

8 Q. And the sites you worked at, powerhouses,
9 refineries, that sort of thing?

10 A. Yes, sir.

11 Q. Okay. You don't hold yourself out as an
12 expert in regulations on asbestos or state of the art
13 or anything like that, right?

14 A. No, sir, I do not.

15 Q. Okay. Can you cite me a body of literature
16 for that statement regarding safety precautions if
17 nothing was implemented until 1988?

18 A. No, sir. That's just practical knowledge.

19 Q. Okay. And you told me you've never worked
20 for a railroad, you've never been an employee on a
21 railroad, you've never supervised on a railroad,
22 right?

23 MR. HANBURY: Asked and answered.
24

23 (Pages 89 to 92)

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1 BY MR. SIGURDSON:
 2 Q. You can answer.
 3 A. You're right, sir.
 4 Q. Okay. So your opinion is in no way meant
 5 to be an opinion regarding safety precautions
 6 implemented by the railroad with respect to their
 7 employees. That's a fair statement?
 8 A. Yes, sir.
 9 Q. Okay. You have no knowledge on that,
 10 right?
 11 A. That's correct, sir.
 12 Q. And you told me you have no expertise in
 13 railroading, right?
 14 A. That's correct sir.
 15 Q. Okay. The next sentence indicates,
 16 "Beginning in the early 1990s, the property owners
 17 were expected to be responsible for testing to
 18 identify asbestos-containing materials."
 19 Now, what's your basis for that statement?
 20 A. Beginning around the '90s, sir, after the
 21 teeth got into the laws in 1988, a lot of the owners
 22 took it upon themselves -- I'm talking about in
 23 factories, refineries, wherever it might be -- that
 24 it would be probably more cost-conscious for them to

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1 hire asbestos-removal people directly and have it
 2 done before they done their remodeling or wherever it
 3 might be. That's where that statement came from,
 4 sir.
 5 Q. Okay. What body or agency is making
 6 property owners responsible for testing and
 7 identifying asbestos-containing materials before you,
 8 a pipefitter or a contractor come in and do the
 9 pipefitting work? Can you tell me that?
 10 A. I believe it's something to do with the
 11 EPA.
 12 Q. Okay. What's your basis for that?
 13 A. Just kind of common knowledge, I guess,
 14 sir.
 15 Q. Okay. But you've never researched it or
 16 looked into it, anything like that, right?
 17 A. No, sir. It wasn't my place to do that.
 18 Q. Okay. If we go to Opinion 3, you advise in
 19 the first sentence there, "Removal of gaskets on all
 20 piping systems was done on all pipefitting remodel,
 21 repair, maintenance, and rehab jobs before about 1988
 22 without protective measures for asbestos and was a
 23 dusty process for lines or systems operating all
 24 operating pressures and temperatures."

1 Do you see that?
 2 A. Yes, sir.
 3 Q. What is your basis for that statement, sir,
 4 your own observation, your own work, right?
 5 A. Yes, sir.
 6 Q. Okay. Now, your opinion is not meant to
 7 encompass what protective measures railroads were
 8 taking to protect their employees, correct?
 9 A. That's correct, sir.
 10 Q. Okay. So you have no knowledge of that and
 11 you have no opinions on that, right?
 12 A. That's correct, sir.
 13 Q. Okay. And you say the same was true for
 14 removal of packing materials, right?
 15 A. That's correct, sir.
 16 Q. The same thing what would go for there,
 17 too, right? Your opinion is not meant to encompass
 18 what protective measures railroads were taking with
 19 respect to their employees, correct?
 20 A. That's correct, sir.
 21 Q. So your knowledge of safety precautions is
 22 only limited to the experience you have in the
 23 industrial settings you've been in firsthand as a --
 24 as a pipefitter, right?

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1 A. That's correct, sir.
 2 Q. Okay. You told me you've not done any
 3 independent studies of other industries such as
 4 railroads, right?
 5 A. That's correct, sir.
 6 Q. Okay. Now, Opinion 4, we move down to
 7 that, we'll take the first sentence.
 8 You said, "At all powerhouse outages,
 9 pipefitters had to perform turbine overhaul work
 10 which resulted in removal of asbestos materials from
 11 piping, valves, flanges connected, including without
 12 limitation crossover piping, to the turbine before
 13 about 1988?"
 14 Do you see that?
 15 A. Yes, sir.
 16 Q. And just for purposes of the record, so I
 17 can be clear, when you say "powerhouse," you mean
 18 like what you described before like Edison, like a
 19 public utility?
 20 A. Yes, sir. And there were smaller
 21 powerhouses, too, a lot of refineries had their own
 22 smaller powerhouses.
 23 Q. Okay. Tell me about that, smaller --
 24 A. Smaller --

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1 Q. There were smaller power plants?
 2 A. **Smaller power plants in the refineries and**
 3 **a lot of little chemical plants and stuff like that**
 4 **had their own little powerhouses, yes.**
 5 Q. Okay. Powerhouses driven by what, like
 6 steam boilers?
 7 A. **That's correct, sir.**
 8 Q. Okay. So you include that in the
 9 powerhouses, it would be a steam boiler set up to
 10 power a certain industry or a certain small
 11 industrial application, you would consider that a
 12 powerhouse, too?
 13 A. **Yes, sir.**
 14 Q. Okay. And what is your basis for the
 15 opinion there at No. 4, in the first sentence?
 16 A. **Because that's what we used to do before**
 17 **1988. After '88, when they put teeth in the law,**
 18 **they used to have people come in and remove that**
 19 **asbestos before we came in, but before that we would**
 20 **remove a lot of it.**
 21 Q. Okay. So your basis for that statement is
 22 your own work in those applications, right?
 23 A. **That's correct, sir.**
 24 Q. Okay. If we get on to Opinion 6, you

1 at the site."
 2 What do you mean by that statement?
 3 A. **Depending upon where you were working and**
 4 **where the pipe coverers was working, sir. There's a**
 5 **lot of different scenarios on that thing.**
 6 **In powerhouses like the big ones where**
 7 **Edison and a lot of those places are, there's usually**
 8 **people working all over that place. The pipe coverer**
 9 **might be, say, on the first floor, and he might be**
 10 **cutting that magnesium block. The powerhouses always**
 11 **had a draft in them when they were building because**
 12 **they'd be open on top and open on the bottom and the**
 13 **air would always rise through there. It would carry**
 14 **that dust through the whole building.**
 15 **On refineries, a lot of times the pipe**
 16 **coverer might be working up on one of the gradings,**
 17 **up on some of the equipment up above, and he would be**
 18 **cutting that magnesium block, and the dust from the**
 19 **cutting of it would be falling down and blowing all**
 20 **over the place, and it was very dusty in a lot of**
 21 **those projects. It looked like snowstorms once in a**
 22 **while.**
 23 Q. Okay. But as far as you're not an
 24 industrial hygiene expert, right?

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1 indicate, "Before 1988, worksites at industrial and
 2 commercial facilities were contaminated by visible
 3 dust from removal of asbestos-containing materials."
 4 Okay? Do you see that?
 5 A. **Yes, sir.**
 6 Q. And your basis for that statement is what,
 7 your own observation, your own personal work in that
 8 area, right?
 9 A. **That's correct, sir.**
 10 Q. Your research regarding other industries
 11 like railroads, right?
 12 A. **That's correct, sir.**
 13 Q. And that opinion is in no way meant to
 14 apply to conditions existing in railroad shops,
 15 correct, because you have no knowledge regarding the
 16 conditions in a railroad shop other than your own
 17 speculation, right?
 18 A. **That's correct, sir.**
 19 Q. Okay. You told me you have no experience
 20 in railroading and you've never done any research in
 21 the area, right?
 22 A. **Yes, sir.**
 23 Q. Okay. The next sentence is, "The dust
 24 spread to other areas depending on the air conditions

1 A. **That's correct, sir.**
 2 Q. So that only comes from your own
 3 observation, experience, and hands-on work, right?
 4 A. **That's correct, sir.**
 5 Q. Okay. And that opinion is in no way meant
 6 to be expressed regarding the conditions existing in
 7 a railroad shop, right?
 8 A. **That's correct, sir.**
 9 Q. Okay. Now, the next sentence, I think you
 10 probably just explained it where you say,
 11 "Powerhouses had a lot of area movement and the
 12 contamination could be observed spreading 50 feet or
 13 further," right?
 14 A. **That's correct, sir.**
 15 Q. Okay. So the powerhouses you're describing
 16 there, is that what you're describing as a public
 17 utility, or is that a smaller industrial powerhouse?
 18 A. **It could be in the smaller ones as well as**
 19 **the bigger ones. It's -- I would say it's kind of**
 20 **universal in a lot of buildings.**
 21 Q. Okay. But that's your own observation in
 22 those applications?
 23 A. **That's correct, sir.**
 24 Q. Okay. The next sentence indicates,

25 (Pages 97 to 100)